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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010 - 585**

12 **LESLIE KAY WRIGHT**  
13 **aka LESLIE KAY UEBEL**  
14 **680 Ocean Lane**  
**Imperial Beach, CA 91932**

**A C C U S A T I O N**

15 **Registered Nurse License No. 503628**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about September 9, 1994, the Board of Registered Nursing issued Registered  
25 Nurse License Number 503628 to Leslie Kay Wright, RN (Respondent). The Registered Nurse  
26 License was in full force and effect at all times relevant to the charges brought herein and expired  
27 on November 30, 2009.

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**JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811 of the Code states:

....

(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition of the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period, the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

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## STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-2008 Regular Session.

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1 8. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by a  
3 board within the department pursuant to law to deny an application for a license or  
4 to suspend or revoke a license or otherwise take disciplinary action against a person  
5 who holds a license, upon the ground that the applicant or the licensee has been  
6 convicted of a crime substantially related to the qualifications, functions, and duties  
7 of the licensee in question, the record of conviction of the crime shall be conclusive  
8 evidence of the fact that the conviction occurred, but only of that fact, and the board  
9 may inquire into the circumstances surrounding the commission of the crime in order  
10 to fix the degree of discipline or to determine if the conviction is substantially related  
11 to the qualifications, functions, and duties of the licensee in question.

12 As used in this section, "license" includes "certificate," "permit," "authority,"  
13 and "registration."

14 9. Section 2761 of the Code states:

15 The board may take disciplinary action against a certified or licensed nurse  
16 or deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the  
18 following:

19 (f) Conviction of a felony or of any offense substantially related to the  
20 qualifications, functions, and duties of a registered nurse, in which event the record

21 10. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the  
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
24 for a person licensed under this chapter to do any of the following:

25 (b) Use any controlled substance as defined in Division 10 (commencing  
26 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
27 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent  
28 or in a manner dangerous or injurious to himself or herself, any other person, or  
the public or to the extent that such use impairs his or her ability to conduct with  
safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,  
consumption, or self-administration of any of the substances described in  
subdivisions (a) and (b) of this section, or the possession of, or falsification  
of a record pertaining to, the substances described in subdivision (a) of this

section, in which event the record of the conviction is conclusive evidence thereof.

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445, states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee."

#### COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(October 13, 2008, Criminal Conviction for DUI on July 2, 2008)**

5 14. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision  
6 (f), for conviction of a crime that is substantially related to the qualifications, duties, and  
7 functions of a registered nurse. The circumstances are as follows:

8 a. On or about October 30, 2008, in the Superior Court of California, County of San  
9 Diego, South County Division, Case No. S221499, Respondent was convicted, on her plea of  
10 nolo contendere, of violating Vehicle Code section 23152(a) (Driving Under the Influence of  
11 Alcohol and/or Drugs), a misdemeanor, and a second count charged under section 23152(b)  
12 (Driving With Blood Alcohol of 0.08% or More), was stayed pursuant to Penal Code section 654.

13 b. The circumstances of the crime are that on or about July 2, 2008, at approximately  
14 2032 hours, San Diego Sheriff's deputies were dispatched to Respondent's residence located at  
15 680 Ocean Lane, Imperial Beach, California, in response to a report of a vehicle having backed  
16 into a gas meter outside of her residence. When officers made contact with Respondent, they  
17 noticed she had red bloodshot, watery eyes, slurred speech and a very strong odor of an alcoholic  
18 beverage emitting from her breath. Respondent told officers that she had been drinking wine all  
19 day, that she was on her way to the store to purchase some more wine, and that she should not  
20 have been driving. Officers asked Respondent to sit on the curb while they conducted an  
21 investigation. While sitting on the curb, Respondent at times appeared as she was going to fall  
22 over. The preliminary alcohol screening tests administered to Respondent returned results of  
23 .189% and .203% blood alcohol content by weight. Respondent was placed under arrest and  
24 transported to the Imperial Beach Sheriff's Station where Respondent consented to a blood test.  
25 A nurse obtained two vials of blood from Respondent for blood alcohol testing.

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1 c. As a result of the above conviction, Respondent was placed on five years summary  
2 probation, ordered to violate no laws, fined \$1,600 and required to perform community service  
3 for 80 hours at a non-profit organization in lieu of 10 days custody. Respondent was further  
4 ordered to enroll in and complete a 9-month First Conviction Program, complete a MADD  
5 program, and not drive without a valid driver's license.

6 d. On or about May 20, 2009, the court revoked Respondent's probation for failure to  
7 complete the MADD program and issued a \$5,000 bench warrant because Respondent failed to  
8 comply with all terms of her probation.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(January 6, 2009, Conviction for DUI on December 2, 2008)**

11 15. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision  
12 (f), for conviction of crimes that are substantially related to the qualifications, duties and function  
13 of a registered nurse. The circumstances are as follows:

14 a. On or about January 6, 2009, in the Superior Court of California, County of San  
15 Diego, South County Division, Case No. S224623, Respondent was convicted, on her plea of  
16 guilty, of violating Vehicle Code sections 23152(a) (Driving Under the Influence of Alcohol),  
17 23152(b) (Driving With Blood Alcohol of 0.08% or More), with an enhancement for having a  
18 blood alcohol level greater than 0.15%, and 14601.2 (Driving When Privilege Suspended for  
19 Prior DUI), all misdemeanors.

20 b. The circumstances of the crime are that on or about December 2, 2008, at  
21 approximately 1930 hours, a San Diego Sheriff's Deputy, while on patrol in the City of Imperial  
22 Beach, California, observed Respondent driving alone ahead of him in the same direction. The  
23 deputy noticed the Toyota that Respondent was driving attempted to enter a parking lot in an area  
24 of construction at 189 Palm Avenue. The deputy observed that the Toyota missed the entrance to  
25 the parking lot and became stuck in a trench. Respondent was able to drive into the parking lot  
26 and stop. The deputy made contact with Respondent while in the parking lot. When Respondent  
27 opened the driver's side door, the deputy noticed a strong odor of an alcoholic beverage emitting  
28 from the Toyota. Respondent told the deputy, "I don't have a license because I got a DUI and I

1 don't want to go to jail." While talking to Respondent, the deputy noticed Respondent's speech  
2 was slurred and she had red, bloodshot eyes. When Respondent got out of her vehicle, she kept  
3 both hands on her vehicle until she reached the rear of the vehicle. The preliminary alcohol  
4 screening tests administered to Respondent returned results of 0.264% and .237% blood alcohol  
5 content by weight. Respondent was placed under arrest and transported to the Imperial Beach  
6 Sheriff's Station where additional preliminary alcohol screening tests were administered to  
7 Respondent, which returned results of .23% and .21% blood alcohol content by weight at 2011  
8 hours and 2014 hours, respectively.

9 c. As a result of the above conviction, the court suspended imposition of sentence for  
10 counts one and two for five years. As to count three, driving when privilege suspended, the court  
11 suspended imposition of sentence for three years. Respondent was placed on five years summary  
12 probation, ordered to serve 10 days in county jail, with credit for 6 days served, and ordered to  
13 pay fees and fines in the amount of \$2,461. Respondent was also ordered to perform 20 days of  
14 community service, ordered to enroll and complete a Multiple Conviction Program, ordered not to  
15 drive without a valid license or and liability insurance, and ordered to have an Ignition Interlock  
16 Device on her vehicle for one year.

17 d. On or about May 20, 2009, the court revoked Respondent's probation due to her  
18 failure to comply with the Multiple Conviction Program, and issued a \$5,000 bench warrant.

### 19 THIRD CAUSE FOR DISCIPLINE

#### 20 (Use of Alcohol in a Manner Dangerous or Injurious to Self)

21 16. Respondent is subject to disciplinary action under Code sections 2761, subdivision  
22 (a), and 2762, subdivision (b), in that Respondent used alcohol to an extent or in a manner  
23 dangerous or injurious to herself or others, as is more fully set forth in paragraphs 14 and 15,  
24 above, which are incorporated here by reference.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Conviction of an Alcohol Related Crime)**

3 17. Respondent is subject to disciplinary action under code sections 2761, subdivision  
4 (a), and 2762, subdivision (c), in that Respondent was convicted of criminal offenses involving  
5 the consumption of alcohol, as is more fully set forth in paragraphs 14 and 15, above, which are  
6 incorporated here by reference.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 503628, issued to Leslie  
11 Kay Wright, aka Leslie Kay Uebel;

12 2. Ordering Leslie Kay Wright, aka Leslie Kay Uebel, to pay the Board of Registered  
13 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to  
14 Business and Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 5/12/10

17 Louise R. Bailey  
18 LOUISE R. BAILEY, M.D., RN  
19 Interim Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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